

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVON LYMON,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§

Cause Nos. 15-CR-4082 MCA  
15-CR-4302 MCA

**UNOPPOSED MOTION FOR  
PRE-RESOLUTION PRESENTENCE REPORT**

DAVON LYMON, by his undersigned counsel, hereby moves the Court for an Order directing the Probation Office to prepare a presentence report prior to the resolution of his case which addresses the issue of criminal history. In support of his Motion, he would respectfully show the Court as follows:

1. Mr. Lymon was accused in indictments filed on November 17 and December 2, 2015, with indictments charging three counts of being a felon in possession of a firearm, two counts of distribution of heroin, and one count of possession of a stolen firearm.

2. Because USSG § 2K2.1, the unlawful possession of a firearm guideline, is heavily dependent on an individual's criminal history, it is difficult to calculate a person's exposure without an accurate understanding of his criminal history. In addition, the multiple counts of guns and drugs split between two indictments and multiple dates would lead for a complicated and challenging assessment of the effect of USSG §§ 3D1.1, 3D1.2, 5G1.1, and 5G1.2. Finally, the parties need to understand the applicability of USSG § 4B1.1. An accurate assessment of Mr. Lymon's criminal history would aid both parties in formulating and negotiating an appropriate

resolution of this case.

3. The defense cannot competently advise Mr. Lymon of the consequences of a plea or trial without better understanding his criminal history.

4. The undersigned counsel have conferred with Assistant Deputy Chief Probation Officer Richard Bohlken regarding this request. The probation office agrees that a form 13 pre-conviction presentence report is warranted. The undersigned counsel have also conferred with Assistant United States Attorney Jacob Wishard concerning this motion. The government does not oppose this request.

WHEREFORE, Defendant Davon Lymon respectfully requests that this Court enter an Order directing the Probation Department prepare a pre-resolution presentence report addressing solely the issue of criminal history and any applicable enhancements.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER  
111 Lomas NW, Suite 501  
Albuquerque, NM 87102  
(505) 346-2489

/s/ Marc H. Robert  
Marc Robert  
Kari Converse  
*Attorneys for Mr. Lymon*

***CERTIFICATE OF SERVICE***

I HEREBY CERTIFY THAT on December 24, 2015, I filed the foregoing electronically through the CM/ECF system, which caused AUSAs Elaine Ramirez and Jacob Wishard to be served by electronic means, as more fully reflected on the Notice of Electronic Filing. I FURTHER CERTIFY THAT on such date I served the foregoing by e-mail on the following non-CM/ECF Participant: Richard Bohlken, Assistant Deputy Chief United States Probation Officer.

/s/ Marc H. Robert